

AMENDED IN SENATE AUGUST 22, 2008

AMENDED IN ASSEMBLY JUNE 6, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 24, 2007

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 13**

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**Introduced by Assembly Members Brownley and Leno**

December 4, 2006

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An act to add ~~Sections 1276.45 and 1276.46~~ *Section 1276.45* to the Health and Safety Code, relating to health facilities.

### LEGISLATIVE COUNSEL'S DIGEST

AB 13, as amended, Brownley. Hospitals: staffing.

~~(1) Existing~~

*Existing* law provides for the inspection, licensure, and regulation of health facilities by the State Department of *Public Health Services*, including, among other facilities, general acute care hospitals, acute psychiatric hospitals, and special hospitals. A violation of the provisions regulating health facilities is a crime. ~~Effective July 1, 2007, the responsibilities of the department are transferred to the State Department of Public Health.~~

Existing law requires that certain building standards published by the Office of Statewide Health Planning and Development, and regulations adopted by the department, prescribe specified standards with respect

to health facilities, including standards regarding staffing facilities with duly qualified licensed personnel.

This bill would, commencing January 1, 2010, require a general acute care, acute psychiatric, or special hospital to adopt, and annually review, a plan or procedure for determining the staffing of professional and technical classifications covered under the above provisions. The bill would provide that the plan or procedure shall not apply to the staffing of nursing personnel. By creating a new crime, the bill would impose a state-mandated local program.

~~This bill would, commencing January 1, 2010, authorize the State Public Health Officer to levy administrative penalties against a health facility for a violation of the staffing provisions contained in the bill.~~

~~(2) This bill would require the Office of Statewide Health Planning and Development, to conduct a comprehensive study to identify the needs for hospital and health facility staffing for nonnurse professional and technical staffing, as specified. The bill would require the office to report its findings to the Legislature and the Governor by December 31, 2008.~~

~~(3) The~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1276.45 is added to the Health and Safety
- 2 Code, to read:
- 3 1276.45. (a) A hospital licensed pursuant to subdivision (a),
- 4 (b), or (f) of Section 1250 shall adopt a plan or procedure for
- 5 determining the staffing of professional and technical
- 6 classifications covered under Section 1276. The plan or procedure
- 7 shall not apply to the staffing of nursing personnel.
- 8 (b) The plan or procedure shall be used by the hospital to
- 9 determine the amount of competent personnel with the appropriate
- 10 combination of skills necessary to meet the needs of its patients.
- 11 The hospital shall annually review the plan or procedure to

1 determine whether it should be adjusted in order to reduce bad  
2 patient outcomes and workplace injuries. The hospital shall  
3 document any changes made to the plan or procedure.

4 (c) The plan or procedure shall be available for review upon  
5 request. The hospital shall provide any interested person with a  
6 copy of the plan or procedure either electronically or in printed  
7 form. The hospital may require payment of reasonable reproduction  
8 costs if provided in print.

9 (d) Failure to maintain, to review annually, or to comply with  
10 a plan or procedure as required by this section shall be deemed by  
11 the department to constitute staffing that has the potential for harm  
12 to patients.

13 (e) During surveys for compliance with state or federal statutes  
14 or regulations, the department shall review the plan or procedure,  
15 the hospital's compliance with the plan, and the annual updates to  
16 the plan to determine compliance with this section.

17 (f) This section shall become operative on January 1, 2010.

18 ~~SEC. 2. Section 1276.46 is added to the Health and Safety~~  
19 ~~Code, to read:~~

20 ~~1276.46. (a) The director, after appropriate notice and~~  
21 ~~opportunity for hearing, may levy administrative penalties for a~~  
22 ~~violation of Section 1276.45. When assessing administrative~~  
23 ~~penalties against a health facility pursuant to this section, the~~  
24 ~~director shall determine the appropriate amount of the penalty for~~  
25 ~~each violation. In making that determination, the director may~~  
26 ~~consider any of the following factors:~~

27 ~~(1) The nature, scope, and gravity of the violation.~~  
28 ~~(2) The facility's history of violations.~~  
29 ~~(3) The demonstrated willfulness of the violation.~~  
30 ~~(4) The behavior of the facility with respect to the violation,~~  
31 ~~including whether the facility mitigated any damage or injury from~~  
32 ~~the violation.~~

33 ~~(b) A health facility may appeal an administrative penalty levied~~  
34 ~~pursuant to this section within 30 days, consistent with Section~~  
35 ~~100171. The facility may also seek to adjudicate the validity of~~  
36 ~~the violation or the penalty.~~

37 ~~(c) This section shall become operative on January 1, 2010.~~

38 ~~SEC. 3. (a) The Office of Statewide Health Planning and~~  
39 ~~Development shall conduct a comprehensive study to identify the~~  
40 ~~needs for hospital and health facility staffing for nonnurse~~

1 professional and technical staff, including, but not limited to,  
2 respiratory therapists, laboratory technicians, phlebotomists,  
3 radiology technicians, pharmacy technicians, psychiatric  
4 technicians, and emergency room technicians. The study shall  
5 estimate the projected need by classification as well as the projected  
6 capacity of educational programs for the classification, and shall  
7 contain recommendations for addressing any projected shortages  
8 in these classifications.

9 (b) ~~The office may contract with the University of California~~  
10 ~~for purposes of the study required by this section.~~

11 (e) ~~The office shall report its findings to the Legislature and the~~  
12 ~~Governor by December 31, 2008.~~

13 ~~SEC. 4.~~

14 *SEC. 2.* No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 the only costs that may be incurred by a local agency or school  
17 district will be incurred because this act creates a new crime or  
18 infraction, eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section 17556 of  
20 the Government Code, or changes the definition of a crime within  
21 the meaning of Section 6 of Article XIII B of the California  
22 Constitution.